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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-965; C-570-966)

Drill Pipe from the People's Republic of China: Notice of Court Decision Not in Harmony with International Trade Commission's Injury Determination, Revocation of Antidumping and Countervailing Duty Orders Pursuant to Court Decision, and Discontinuation of Countervailing Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On November 10, 2014, the Court of International Trade (CIT) entered its final judgment sustaining the International Trade Commission's (ITC) remand redetermination that imports of drill pipe from the People's Republic of China (PRC) do not materially injure or threaten to materially injure the United States domestic industry. As a result, we are notifying the public that this court decision is not in harmony with the ITC's original affirmative determination that the domestic industry was threatened with material injury by reason of imports of drill pipe from the PRC, and pursuant to the ITC's publication of its negative remand redetermination in the Federal Register, we are hereby revoking these orders.

DATES: Effective Date: November 20, 2014.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Kristen Johnson, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; Telephone: (202) 482-1394 or (202) 482-4793, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2011, the Department of Commerce (the Department) published antidumping and countervailing duty orders on imports of drill pipe from the PRC, based, in part, on the final affirmative determination of the ITC that the domestic industry was threatened with material injury by reason of imports of drill pipe from the PRC.¹

The respondent, Downhole Pipe, a Chinese producer of subject merchandise, subsequently challenged the ITC's final injury determination in *Downhole Pipe v. United States*, CIT No. 11-00080, and the ITC reversed its injury determination on remand, finding no material injury or threat thereof. On November 10, 2014, the CIT affirmed the ITC's remand and entered judgment in the case.² Therefore, there is now a final CIT decision in the case sustaining the ITC's negative injury determination concerning drill pipe from the PRC. The November 10, 2014, decision by the CIT in *Downhole Pipe* constitutes a final CIT decision that is not in harmony with the ITC's original affirmative injury determination.

Statutory Notice

In its decision in *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990), the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not "in harmony" with an ITC determination and must suspend liquidation of entries pending a "conclusive" court decision.³ The November 10, 2014, decision by the CIT in *Downhole Pipe* constitutes a final CIT decision that is not in harmony with the ITC's original affirmative injury

¹ See *Drill Pipe from the People's Republic of China: Antidumping Duty Order*, 76 FR 11757 (March 3, 2011); *Drill Pipe from the People's Republic of China: Countervailing Duty Order*, 76 FR 11758 (March 3, 2011); *Drill Pipe and Drill Collars from China*, Investigation Nos. 701-TA-474 and 731-TA-1176 (Final), USITC Publication 4213 (February 2011).

² See *Downhole Pipe v. United States*, CIT No. 11-00080, Slip Op. 14-130 (November 10, 2014).

³ See sections 516A(c)(1) and (e) of the Act.

determination on drill pipe from the PRC. Thus, this notice is published in fulfillment of the publication requirement in *Timken* and section 516A of the Act.

Accordingly, the Department intends to issue instructions to U.S. Customs and Border Protection (CBP) to suspend liquidation of all unliquidated entries of subject merchandise which are entered, or withdrawn from warehouse, for consumption after November 20, 2014, which is ten days after the court's decision in accordance with section 516A of the Act. Pursuant to *Timken*, all entries entered, or withdrawn from warehouse, for consumption after November 20, 2014, that remains unliquidated, will be suspended during the pendency of the appeals process so that they may be liquidated in accordance with the "conclusive" court decision.

Revocation of the Antidumping and Countervailing Duty Orders and Discontinuation of Countervailing Duty Administrative Review

The ITC published notice of its negative determination in the *Federal Register*, pursuant to sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act).⁴ See *International Trade Commission, Investigation Nos. 701-TA-474 and 731-TA-1176 (Final Remand): Drill Pipe and Drill Collars from China*, 79 FR 75592 (December 18, 2014); sections 705(d) and 735(d) of the Act ("... the Commission . . . shall publish notice of its determination in the *Federal Register*.").

Pursuant to sections 705(c)(2) and 735(c)(2) of the Act, "the investigation shall be terminated upon publication of that negative determination" and the Department shall "terminate the suspension of liquidation" and "release any bond or other security, and refund any cash deposit." Sections 705(c)(2)(A) and (B) of the Act; sections 735(c)(2)(A) and (B) of the Act. As a result of the ITC's publication, the Department is hereby revoking the antidumping and countervailing duty orders and releasing any bonds or other security and refunding cash deposits.

⁴ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374, 1381-82 (Fed. Cir. 2010).

While sections 705(c)(2)(A) and 735(c)(2)(A) of the Act instruct the Department to terminate suspension of liquidation, here, because suspension of liquidation must continue during the pendency of the appeals process (in accordance with *Timken* and as discussed above), we will instruct CBP at this time to (A) continue suspension at a cash deposit rate of 0.0 percent until instructed otherwise; and (B) release any bond or other security, and refund any cash deposit made pursuant to *Drill Pipe from the People's Republic of China: Antidumping Duty Order*, 76 FR 11757 (March 3, 2011); *Drill Pipe from the People's Republic of China: Countervailing Duty Order*, 76 FR 11758 (March 3, 2011). In the event the court's ruling in *Downhole Pipe* is not appealed, or if appealed and upheld by the CAFC, the Department will instruct CBP to terminate the suspension of liquidation and to liquidate those entries of subject merchandise without regard to antidumping or countervailing duties. Notwithstanding the continued suspension described above, the antidumping and countervailing duty orders on drill pipe from the PRC are hereby revoked. As a result of this revocation, the Department is discontinuing the ongoing administrative review of the countervailing duty order covering the period January 1, 2013, through December 31, 2013,⁵ and will not initiate any new administrative reviews of the antidumping and countervailing duty orders.

This notice is published pursuant to section 516A of the Act. *See* sections 516A(c)(1) and (e).

DATED: December 18, 2014.

Ronald K. Lorentzen,
Acting Assistant Secretary for Enforcement and Compliance.

⁵ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 24398 (April 30, 2014). The Department received a request to conduct a countervailing duty administrative review from Shanxi Yida Special Steel Imp. & Exp. Co., Ltd., a Chinese exporter of drill pipe.

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